

#### Members

Sen. Lawrence Borst, Chair  
Sen. Thomas Wyss  
Sen. Vi Simpson  
Rep. Vern Tincher  
Rep. Lawrence Buell



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## COMMISSION ON STATE TAX AND FINANCING POLICY

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### MEETING MINUTES<sup>1</sup>

Meeting Date: September 15, 1999  
Meeting Time: 10:00 A.M.  
Meeting Place: State House, 200 W. Washington St.,  
Room 431  
Meeting City: Indianapolis, Indiana  
Meeting Number: 1

**Members Present:** Sen. Lawrence Borst, Chair; Sen. Thomas Wyss; Rep. Vern Tincher;  
Rep. Lawrence Buell.

**Members Absent:** Sen. Vi Simpson.

Senator Lawrence M. Borst, Chairperson of the Commission on State Tax and Financing Policy, convened the meeting shortly after 10:00 a.m. and introduced the members of the Commission. The Chairperson stated that the business of the Commission would be completed in three meetings. Today's meeting would be reserved for property tax reassessment, while the October 12<sup>th</sup> meeting would focus on the Financial Institutions Tax. The third meeting set for October 19<sup>th</sup>, will cover a variety of topics.

#### **Tim Brooks, Chairperson, State Board of Tax Commissioners**

Chairperson Borst then recognized Tim Brooks, Chairperson of the State Tax Board. Mr. Brooks distributed copies of the reassessment manual which had been completed that morning. (Exhibit A) He noted that the general public can obtain an electronic copy of the manual at no charge by emailing the State Tax Board at [taxboard@tcb.state.in.us](mailto:taxboard@tcb.state.in.us). The Tax Board can also provide the manual on a computer disk for a minimal charge of \$4 or a paper copy will also be available. Mr. Brooks stated that a detailed fiscal analysis of the reassessment regulations had been prepared for presentation to the Commission. (Exhibit B)

Mr. Brooks began with an illustration of the responsibilities of the State Tax Board (STB) and explained that the STB can not reduce the tax levy. Any tax decrease must be offset by a tax

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<sup>1</sup>Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

increase. Mr. Brooks acknowledged that the STB was behind schedule with the issuance of the reassessment regulations. The regulations were due by January 1, 1999 and will be about one year late. In an effort to help the assessors begin field work, the STB selected the Marshall & Swift residential cost service and distributed the cost tables at the end of June. He stated that a public hearing is scheduled for the proposed rule on November 9<sup>th</sup> at 1 p.m. He stressed that written comments would be welcomed with suggestions for good valuation methods. However the STB can not do anything about reducing taxes.

Mr. Brooks then gave a brief summary of the history of reassessment, beginning with the State Supreme Court decision in December 1998 which held that the current method of property tax assessment was unconstitutional because it did not use objectively verifiable data (Exhibit C). Mr. Brooks discussed some of the key concepts in the revised manual. With respect to residential property, Mr. Brooks explained that the basic approach is still cost less depreciation. According to Mr. Brooks, there are now 180 different depreciation rates used in the new assessment standards compared with only 13 under the current system. Mr. Brooks further stated that the condition of property is also no longer subjective (depreciation is now based on the condition relative to the neighborhood). Turning to commercial property obsolescence, Mr. Brooks explained that they tried to simplify the assessment methods to reduce the number of appeals on obsolescence.

Mr. Brooks explained that a shelter allowance was included in the new manual as a way to address the Supreme Court's ruling on the use of market value data and the Indiana statute's specification that true tax value is not market value. The concept of a shelter allowance acknowledges that basic shelter does not equate to wealth. He also noted that agricultural property valuation was based on objectively verifiable data. Agricultural land now assessed at \$495 per acre, will be assessed at \$1,050 per acre.

Another key concept in the new reassessment regulation discussed by Mr. Brooks was the proposed changes in personal property assessment. Mr. Brooks noted that the STB does not have objectively verifiable data to support the current depreciation rates. They have looked at both Ohio and Michigan which use slower rates of depreciation than Indiana's current standard. The proposed rule would eliminate the 35% inventory adjustment.

In summary, Mr. Brooks stated that the shifts between the classes of property are minimal whereas the shifts within classes are more difficult to address.

Mr. Brooks then introduced Jeff Wuensch, Director of the STB's Tax Review Division, to present the fiscal impact analysis of the new assessment procedures. (Exhibit B) Mr. Wuensch stated that the base model used in the analysis was the one used by Dr. Larry DeBoer for the Market Value Study. However, some of the key aspects of the new reassessment standards, such as the shelter allowance, the increased valuation of agricultural land, and the slower depreciation rates for business personal property were added to the model.

Senator Wyss asked how the new reassessment regulation would affect older homes. Mr. Wuensch answered that an older home would receive less depreciation if the condition of the property is still excellent. Representative Buell asked if Mr. Brooks felt that the new standards could withstand a court challenge. Mr. Brooks responded that he was unsure, but was confident that they had made the best possible adjustment to meet the Supreme Court's "twin" requirements of being objective and verifiable.

Senator Borst then questioned how the STB intended to monitor reassessment, especially in areas where reassessment would have extreme effects on property tax rates, such as Lake County. Mr. Brooks replied that the new procedures give the STB better tools to check the performance of local assessors. Senator Borst noted that the Supreme Court decision does not

actually require that market value be used in assessment. Mr. Brooks explained the need to use objectively verifiable data. He referred to page 10 of the St. John's decision where market value must be considered, but is not necessarily required to be the sole basis.

Chairperson Borst noted that the STB was creating a lot of new laws in the manual with the adjustments for farm land, the shelter allowance, and personal property. He asked Mr. Brooks if the STB would like the General Assembly to provide them with more guidelines. Mr. Brooks responded that the current statute delegates significant power to the STB to promulgate rules and they are reluctant to provide benefits to any one particular group over another. Senator Borst suggested that the General Assembly should pursue the establishment of parameters.

#### **Dr. Larry DeBoer, Legislative Services Agency**

Chairperson Borst then recognized Professor Larry DeBoer of the Legislative Services Agency and Purdue University's Department of Agricultural Economics. Dr. DeBoer addressed the fiscal impact analysis presented by Mr. Wuensch of the STB and stated that he generally concurred with the STB's results. Dr. DeBoer cautioned that differences in the output of the models were due to preliminary assumptions used when he did his analysis before the final release of the proposed rule.

Dr. DeBoer looked at the impact of three of the STB's major revisions— the shelter allowance, personal property, and the agricultural base rate (Exhibit D). Dr. DeBoer cautioned that his model used a base rate of \$1,200 rather than the \$1,050 rate proposed by the STB, and that this difference probably accounted for most of the variation in results. Dr. DeBoer noted that the shelter allowance has a major affect on reducing the tax burden of homeowners.

Dr. DeBoer stated that the monitoring of assessment remains a key issue, and that past studies have demonstrated that 100% market value assessment results in greater uniformity. He noted that monitoring by the STB and homeowners will increase pressure on the assessors to more accurately assess property. However, he was concerned that if homeowners only received assessed value (AV) information after the shelter allowance adjustment they would not have the information they need to monitor their assessment. Dr. DeBoer suggested that homeowners could be given the appraised value of their house along with the adjusted AV. Senator Borst asked if the sales disclosure data and fee were still being collected and if this information was still confidential. Mr. Brooks replied that the forms would become public beginning January 1, 2000.

Chairperson Borst then asked if county auditors can prevent the sale of property if they feel that the sale price was under reported. Paul Ricketts, Assessor for Lawrence Township, Marion County, responded that auditors can refuse to approve a deed if forms are not filled out completely, but cannot make judgments based on value.

The Chairperson then asked Mr. Brooks if it was accurate that only 5% of the forms were filled out correctly. Mr. Brooks responded that while data from 5% of the forms could be electronically transferred into the market value study, 50% of the forms had correct information. Dr. DeBoer added that a problem with parcel numbers had contributed to the small percentage of forms which could be used as data.

#### **Paul Ricketts, Lawrence Township Assessor**

Chairperson Borst recognized Paul Ricketts, Lawrence Township Assessor, who expressed his concern with the delay in the release of the reassessment manual. Although he approved of the adoption of the Marshall system, Mr. Ricketts stated that there would be much training needed to put the system into practice effectively. He noted that traditionally there are appeals on 10%

of all parcels and with the 100% valuation requirements he believes that there will be a significant increase in the number of appeals. Mr. Ricketts recommended a one year delay in reassessment. Mr. Ricketts added that he was hopeful that availability of the sales disclosure forms would aid in the appeal process. He suggested that state funding for training would be a great benefit.

Chairperson Borst then asked about the availability of sales data to the public and remarked that such a system exists in Florida. Mr. Brooks responded that this type of system is not widely available now but that the data is being collected. Mr. Ricketts commented that some counties in Indiana have developed such a system, and the system in Florida is statewide but based on a subscription fee.

### **Patrick Kiely, Indiana Manufacturers Association**

Chairperson Borst then recognized Pat Kiely of the Indiana Manufacturers Association (IMA). Mr. Kiely emphasized that the Indiana Constitution requires the General Assembly to provide for a uniform system of property taxation. Mr. Kiely also called for the exemption of business personal property. He stated that the new reassessment procedures provide significant tax relief for commercial property, not industrial property. He noted that the Market Value Study was a static study and the study commissioned by the IMA was dynamic. Mr. Kiely stressed that Indiana is not competing against Michigan and Ohio, but is rather participating in a global marketplace. (Handouts included in Exhibit E.)

Mr. Kiely suggested that the General Assembly become involved in the property tax reform and establish different classifications. He noted that one problem is that "true tax value" has not been defined in statute. The Indiana Supreme Court has allowed for different methods of assessment to be used for different classes of property, so the Indiana General Assembly needs to adopt these classifications in statute. Another problem cited by Mr. Kiely was the failure to follow state law, in particular SEA 637-1993. Mr. Kiely then expressed his doubt that the new assessment regulation would be followed in certain areas, such as in Lake County. Mr. Kiely stated that Justice Sullivan's dissent in the St. John case indicated that the problem was with the schedules and not the system. He also called on the General Assembly to reexamine the STB's authority and look at the experiences of other states. Mr. Kiely suggested that the State should provide uniform technology for the local assessors.

### **Kevin Brinegar, Indiana Chamber of Commerce**

Chairperson Borst then recognized Mr. Kevin Brinegar, Senior Vice President for Government Affairs for the Indiana Chamber of Commerce (for a written copy of Mr. Brinegar's testimony see Exhibit F). Mr. Brinegar stated that the Chamber of Commerce is opposed to the proposed rule changes regarding personal property. Mr. Brinegar explained that manufacturing and high technology would experience the most detrimental effects, offsetting any benefits to commercial businesses.

Chairperson Borst then asked Mr. Brinegar about the unfairness of the proposed reassessment versus the reduction of the property tax burden and noted that if reassessment was unfair now it would still be unfair even with a reduction in the tax burden. The Chairperson asked Mr. Brinegar if he felt that tax relief could be provided by implementing classifications of personal property by use (i.e. agricultural, research and development, etc.). Mr. Brinegar answered that abatements are currently used as an effective tax relief tool and form of classification.

Chairperson Borst responded that he did not believe the General Assembly should delay reassessment unless there was an alternative proposal presented to the STB.

**Ben Ramsey, Indiana State Building and Construction Trades Council;  
Jerry Payne, AFL-CIO**

Mr. Ben Ramsey was recognized next by Chairperson Borst, and Mr. Ramsey deferred to Jerry Payne, Secretary-Treasurer of the Indiana State AFL-CIO. (See Exhibit G for a written copy of Mr. Payne's remarks to the Committee) Mr. Payne stated that he felt that businesses already receive too much tax relief and the number one priority should be to protect the homeowners.

Senator Wyss asked Mr. Payne if the proposed property tax increases on businesses would cause the older unionized manufacturing firms to move out of state and result in a loss of jobs for union workers. Mr. Payne stated that taxes are not the only reason why business chose to relocate and cited the problems with NAFTA and GATT.

**Grant Monahan, Indiana Retail Council**

Chairperson Borst then recognized Grant Monahan of the Indiana Retail Council. Mr. Monahan stated that the goal of the Retail Council is to see the elimination of the inventory tax and he expressed his disappointment with the level of tax relief that passed last legislative session. Mr. Monahan stated that the level of tax reduction was not sufficient to stimulate economic development. He also remarked that the current proposal for assessing personal property would be detrimental to businesses and negate the relief that was granted last session.

Chairperson Borst asked if Mr. Monahan had any suggestions or alternative proposals. Mr. Monahan answered that his organization is reviewing ideas and had not yet determined the extent of the problem.

The Chairperson then inquired about the status of the Caterpillar lawsuit in Tippecanoe County regarding business personal property. Mr. Brooks responded that the parties involved had put the issue on hold.

**Bob Kraft, Indiana Farm Bureau**

Chairperson Borst then recognized Bob Kraft of the Indiana Farm Bureau. Mr. Kraft stated that his organization represents approximately 70,000 farmers active in production agriculture. Mr. Kraft noted that while Indiana's farmers make up only 1% of the population, they pay a disproportionately high 7% of the tax burden. Mr. Kraft expressed his belief that property taxation should reflect the benefit principle— that individuals should contribute reasonably in proportion to the benefit they receive from government. Mr. Kraft stated that if residential property owners receive the vast majority of services paid for by property taxes, then perhaps an increase in the residential property tax burden may be appropriate.

Mr. Kraft discussed the adverse conditions faced by Indiana's farmers and mentioned that property taxes are reflected as a cost of input in farm operations. Mr. Kraft proposed that the General Assembly consider a system of classifications that encourages farming to prevent farm acreage from declining. Mr. Kraft also suggested that the statewide average impacts of reassessment are misleading, and there are only 34 counties where agricultural property will see a decrease and in 58 counties agriculture will experience a significant increase in property taxes. He then asked that the Legislature reduce local governments dependency on the property tax altogether.

Representative Tincher noted that without any changes in the personal property assessment, residential and agricultural property taxes will increase. Representative Tincher then asked if Mr. Kraft's was suggesting no adjustments to personal property taxation and have the General Assembly provide targeted tax relief.

## **Karl Berron, Indiana Association of Realtors**

Chairperson Borst then recognized Karl Berron of the Indiana Association of Realtors. Mr. Berron stated that his organization is closely tied to taxpayers. Mr. Berron stated that the property tax system needs to be reformed at three levels. First, assessment should move towards market value so taxpayers can understand the system. Mr. Berron added that this would also serve as a built-in check for uniformity. Second, the administrative structure needs to be reformed. Mr. Berron stated that there are too many individuals for the amount of training and oversight that is provided. Finally, the assessment base should be examined with explicit solutions (tax relief) being addressed with legislation for those who bear a greater tax burden.

Chairperson Borst stated that all three things could be done at once or phased in over time. He concurred with the need for an equitable assessed value base before reforms can be addressed. Chairperson Borst expressed his opinion that not enough alternatives currently exist and that he does not favor delaying reassessment. The Chairperson then thanked all those present and adjourned the meeting at approximately 12:40 p.m.